HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.P.NO. 33501 OF 1997

Between:

M. Sammaiah

… Petitioner

and

A.P. State Road Transport Corporation and another

… Respondents

HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.P.NO. 33501 OF 1997

ORAL ORDER:

The grievance of the petitioner in this writ petition is that while drivers, who suffered from Colour Blindness, were given a stationary job and, pursuant to the circular dated 15.9.1989, were provided with a channel for promotion to the post of Assistant Depot Clerks, other employees, who were provided alternative employment on being found medically unfit to work as drivers, have not been extended the said benefit.

The petitioner, hitherto a driver, was held unfit to continue to hold the post of driver as he was diagnosed to be suffering from "Idiopathic Epilepsy with normal EEG and 'X' Ray". The Chief Medical Officer, in his report, suggested that the petitioner be given a stationary job with regular check up by a Neuro Physician and the petitioner was accordingly provided alternative employment as a Cleaner.

The petitioner's grievance is that since all employees, who were found medically unfit to continue as drivers and were provided alternative employment, constitute a single homogeneous class, a further sub-classification of this single class into persons, who are found medically unfit on the ground of Colour Blindness and those who were found medically unfit on other grounds, is irrational, arbitrary and violative of Articles 14 and 16 of the Constitution of India.

No counter affidavit is filed on behalf of the respondent-Corporation nor is there any representation on their behalf, when the matter was taken up for hearing. Except for the affidavit filed in support of the writ petition, there is nothing else on record in justification of the basis on which such a classification was made.

The Submission of Sri V. Viswanatham, learned counsel for the petitioner, that such a classification is irrational and arbitrary, cannot be said to be without merit. Ends of justice would be met if the petitioner is permitted to submit a detailed representation in this regard to the 1st respondent who shall examine the contentions raised therein and pass appropriate orders in accordance with law. Sri V. Viswanatham, learned counsel for the petitioner, would submit that such a representation would be submitted by the petitioner within a period of 4 weeks from the date of receipt of a copy of this order. The 1st respondent shall,

within a period of 3 months from the date of receipt of the petitioner's representation, consider the same and pass a reasoned order in accordance with law.

The writ petition is disposed of. No costs.

RAMESH RANGANATHAN, J

DATE: 7.3.2007

CVM